

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RODOLFO MONTER HERNANDEZ,

Plaintiff,

DECLARATION

Case no.: 19 CV 01257 (ALC-SN)

- against -

99 THAI PLAYGROUND LLC, ET AL.,

Defendants.
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MATT BRUCK hereby declares, pursuant to 28 U.S.C. § 1746, under penalty of perjury under the laws of the United States of America, that the following is true and correct:

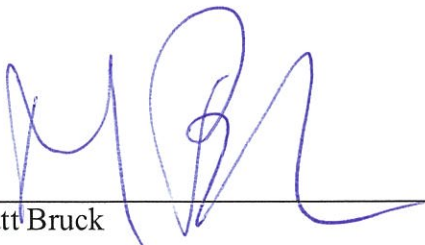
1. I submit this Declaration in support of my motion to dismiss the case for failure to serve me with the summons and complaint.
2. I have never been an owner, investor, or employee of 99 Thai Playground LLC or Inspired Hospitality Management LLC.
3. The First Amended Complaint alleges that the plaintiff worked at Thaimée Table from approximately June 2012 until on or about February 1, 2019.
4. I first met Hong Thaimée - the restaurant's principal owner and chef, previously known as Ngamprom Thaimée - in July 2017. We worked together as consultants to McCarren Hotel from August to December 2017.
5. In August of 2018, Hong Thaimée and I formed Thaimée Magic LLC, which created and operated the Thaimée Magic food hall concept at Gansevoort Market (353 West 14th Street) in late 2018 and then at Urban Space (570 Lexington Avenue) in 2019.

6. Thaimée Magic LLC is the only business I had with Ngamprom Thaimée and I have never had any legal relationship with Thaimée Table.
7. I never had authority to issue orders to Thaimée Table staff. On a few occasions, for catering events booked by me for Thaimée Magic and fulfilled in part by Thaimée Table (because Thaimée Magic had no liquor license), I instructed Thaimée Table staff on menus, delivery addresses, etc
8. I was never responsible for paying Thaimée Table staff. In 2018-19, Chy Thaimée, Hong Thaimée' brother, was responsible for paying the staff and always ran the weekly payroll, in coordination with a third party provider. He handed out payments to staff. (I don't know whether he made payment in check or cash). Someone named Luigi (whose last name I do not know) assisted with the payroll. I never made a cash payment to anyone on behalf of the restaurant.
9. I occasionally was at the restaurant but did not regularly conduct business there, and was never a boss or supervisor.
10. I lived a few blocks away from the restaurant and went there every other week in the evening, after finishing my work at Thaimée Magic, to have dinner and discuss Thaimée Magic with Hong Thaimée because it was the most convenient time/place to meet.
11. In addition, sometimes I also ate at the restaurant with friends, on average once or twice a month. These were purely social occasions, with no business purpose.
12. On occasion, if one of the staff was late or did not show up, I helped out by bussing tables or washing dishes because the two restaurants shared Hong Thaimée as chef and the Thaimée brand was important to my restaurant. My helping out did not involve managing or paying staff. This happened 5 to 6 times in 2018 and less in 2019.

13. Perhaps twice a month, I went to Thaimée Table to buy Thai ingredients for Thaimée Magic when the normal suppliers ran out. Every Thai restaurant uses the same herbs - but there aren't many suppliers, so they run out sometimes. I did this on behalf of Thaimée Magic.
14. I never called or received a call from plaintiff as he alleges in his Declaration.
15. I am aware that on April 3, 2019, a process server allegedly served "Leo Smith" at Thaimée Table, 99 Third Avenue, New York, NY, and then mailed a copy to that same address, and that the process server claims that "Leo Smith" was allegedly "Matt Doe's" co-worker.
16. I am also aware that on May 14, 2019, the same process server allegedly served an amended complaint on "Joseph Smith" at the above address and by mailing a copy there. I am aware that the process server alleges that "Joseph Smith" was my co-worker.
17. Thaimée Table, 99 Third Avenue, New York, NY, has never been my actual place of business, dwelling place, or usual place of abode.
18. On the above dates, I had employments at Eaters Drinkers LLC, which I ran from my apartment (see below), and Thaimée Magic LLC, 570 Lexington Avenue, New York, New York.
19. On the above dates my only dwelling place and my usual place of abode was 211 East 18th Street, New York, NY 10003.
20. I never received the legal papers allegedly served on April 3, 2019 or May 14, 2019, or the subsequent mailings and I do not know anyone named Leo or Joseph at Thaimée Table.
21. A New York City Marshall took possession of the Thaimée Table space during the week of April 29, 2019, padlocked the door, and turned the property over to its owner.

22. On May 10, 2020, the building's owner allowed Hong Thaimée to clean out the restaurant and she hired a moving company to do so. The movers cleared out everything that could be carried, leaving only a bar.
23. I was present to observe the May 10, 2020, move out and no Thaimée Table staff members were present except Hong Thaimée. Employees of the building's owner supervised the move out and professional movers did the move.
24. Contrary to the assertions made by plaintiff's lawyer, I neither took the photograph of the Marhsall's Notice nor kept a copy. Rather, I found it in a Google search.
<https://evgrieve.com/2019/05/the-marshall-visits-thaimée-table-who.html>.
25. The article's author is correct that I was business partners with Hong Thaimée but wrong about which restaurant.
26. On May 14, 2019, Thaimée Table was out of business and the premises returned to the owner. There would have not been any restaurant staff present when the process server claims that he served "Joseph Smith."
27. I first learned of this lawsuit when I received a copy of plaintiff's Order To Show Cause that was mailed to my office at Smart Advocate LLC, 6 Harbor Park Drive, Port Washington, New York 11050, where I started working earlier this year.

Dated:
New York, New York
October 20, 2020


Matt Bruck